

State of California
Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

Kinder Morgan Energy Partners, L.P.
1100 Town & Country Road
Orange, CA 92868

Attention: Eric J. Conard

Complaint No. R8-2003-0040
for
Mandatory Penalties

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Kinder Morgan Energy Partners, L. P., (KMEP) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Board) must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h) and (i).
2. A hearing concerning this Complaint is scheduled for the Board's regular meeting on April 4, 2003. KMEP or its representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda for the meeting and the staff report related to the Complaint will be mailed to you not less than 10 days prior to the hearing date.
3. If a hearing is held, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer this matter to the Attorney General for recovery of judicial civil liability.
4. This complaint is based on the following facts:
 - a. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit. On March 11, 2002, KMEP was authorized to discharge treated water from its groundwater cleanup system at the Colton Terminal and was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 02-0007-023.
 - b. KMEP submitted self-monitoring reports (July through November 2002), which show effluent limit violations of tertiary butyl alcohol. These violations are summarized on Attachment "A" that is Page 3 of this complaint.

5. Water Code Section 13385(h) and (i) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious and/or other specific types of violations.
6. As shown in Attachment "A", KMEP had a total of seventeen violations between July 1 and November 1, 2002. All except the violation on July 17, 2003 are considered serious violations. The July 17, 2003 result did not exceed the effluent limit by more than 20 percent and therefore it is not considered a serious violation.
7. The sixteen serious violations are subject to a mandatory minimum penalty of \$3,000 per violation. In accordance with Water Code Section 13385(h) and (i), the mandatory minimum penalties for the sixteen effluent limit violations cited in Attachment "A" are \$48,000.
8. In addition, the Board may also assess administrative civil liability of \$10,000 per day for each day of violation and \$10 per gallon for each gallon discharged in excess of 1,000 gallons in accordance with Water Code Section 13385(c). The maximum administrative civil liability that may be imposed for these violations is \$5,915,000 (\$130,000 for thirteen days of violation and \$5,785,000 based on $579,500 - 1,000 = 578,500$ gallons @ \$10 per gallon).
9. In assessing the penalty, the Board must consider the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator the ability to pay, any prior history of violations, the degree of culpability, economic benefits, or savings resulting from the violation, and other matters as justice may require. After consideration of these factors, the Executive Officer proposes that mandatory penalties of \$48,000 be imposed on KMEP by the Board for the violations cited above.
10. You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver form and return it together with a check for \$48,000 payable to the State Water Resources Control Board and the bottom portion of the invoice to Sacramento in the enclosed envelope.

If you have any questions regarding this complaint, please contact Ken Williams at (909) 782-4496 or Rose Scott at (909) 320-6375, or the Board's staff counsel, Jorge Leon, at (916) 341-5180.

3/5/03

Date

K. J. Thibeault

for Gerard J. Thibeault
Executive Officer

ATTACHMENT "A"

TABLE 1. EFFLUENT LIMIT VIOLATIONS FOR TERTIARY BUTYL ALCOHOL

VIOLETION DATE	DISCHARGE FLOW Gallons Per Day	TBA EFFLUENT LIMIT* Daily Maximum in µg/l	TBA DISCHARGE (µg/l)
07/17/2002	65,800	19	20
07/24/2002	22,600	19	45
07/31/2002	16,200	19	40
08/05/2002	0	19	58
08/07/2002	15,900	19	56
08/14/2002	86,400	19	41
09/04/2002	48,700	19	38
09/11/2002	34,400	19	68
09/18/2002	57,200	19	59
09/25/2002	66,100	19	61
10/02/2002	28,300	19	95
10/09/2002	68,500	19	38
10/23/2002	69,400	19	44

VIOLETION MONTH	TBA EFFLUENT LIMIT Monthly Average in µg/l	TBA DISCHARGE (µg/l) Monthly Average in µg/l**
July 2002	12	24.4
August 2002	12	37.2
September 2002	12	56.5
October 2002	12	37.4

* The receiving water is the Santa Ana River, which is exempt from municipal use.

** For samples without TBA reported, a TBA value of half of the TBA detection limit was used.

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)	
Attention: : Eric J. Conard)	

WAIVER OF HEARING

I agree to waive the right of Kinder Morgan Energy Partners, L. P., to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0040. I have enclosed a check for \$48,000 made payable to the State Water Resources Control Board. I understand that I am giving up the right of Kinder Morgan Energy Partners, L. P., to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2003-0040, and against the imposition of, and amount of, the mandatory penalties.

Date

for Kinder Morgan Energy Partners, L. P.